



United States Senate

WASHINGTON, DC 20510-0504

<http://feinstein.senate.gov>

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February 23, 2015

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Chairman Wheeler:

As you consider your proposed Order for an open Internet, I urge you to again include provisions that will preserve the ability of Internet service providers to block access to material that endangers public safety, violates intellectual property protections, or threatens national security.

As you may know, terrorists are actively using the Internet to recruit disgruntled youth, and to encourage them to commit acts of terrorism. Pirate websites use the Internet to steal millions of dollars of intellectual property from American creators and businesses. Predators use the Internet to lure and traffic in children, among other crimes. It is therefore essential that Internet service providers (ISPs) have the ability to impede access to sites and services that facilitate these activities.

Recognizing this, the 2010 Open Internet Order that was struck down by the U.S. Court of Appeals for the District of Columbia Circuit expressly preserved the ability of ISPs to block access to these kinds of illegal and harmful materials, by including these provisions:

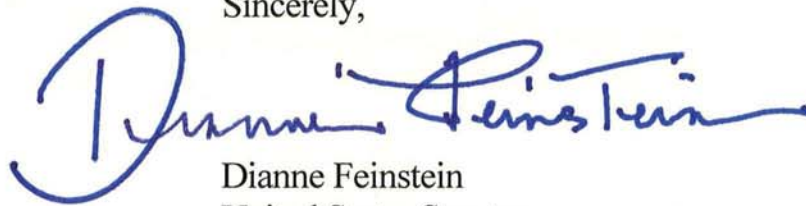
Nothing in this part supersedes any obligation or authorization a provider of broadband Internet access service may have to address the needs of emergency communications or law enforcement, public safety, or national security authorities, consistent with or as permitted by applicable law, or limits the provider's ability to do so.

Nothing in this part prohibits reasonable efforts by a provider of broadband Internet access service to address copyright infringement or other unlawful activity.

I respectfully urge that you include this language, or equally-protective similar language, in any open Internet order that you adopt.

Thank you very much for your attention to this matter. Should you have any questions or wish to discuss this matter, please do not hesitate to call me, or have a member of your staff call my Chief Counsel, Neil Quinter, at 202-224-4933.

Sincerely,

A handwritten signature in blue ink, reading "Dianne Feinstein". The signature is fluid and cursive, with a large initial "D" and a long horizontal stroke at the end.

Dianne Feinstein
United States Senator



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 9, 2015

The Honorable Dianne Feinstein
United States Senate
331 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Feinstein:

Thank you for your letter expressing support for provisions in the Open Internet Order (Order) that will preserve the ability of Internet Service Providers (ISPs) to block access to material that endangers public safety, violates intellectual property protections, or threatens national security. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

On February 26, 2015, the Federal Communications Commission (FCC) voted to approve new rules designed to preserve the Internet as an open platform for innovation, investment, and free expression. Utilizing the combined authority of Title II of the Communications Act and Section 706 of the Telecommunications Act, these rules are rooted in long-standing regulatory principles, marketplace experience, and public input received over the last year. This Order represents the most open rulemaking in history and is based on months of listening to the views of policymakers outside the Commission, industry and public interest representatives, and, as you note, millions of Americans from all walks of life speaking in a clear voice against practices that harm a free and open Internet.

As you stated, it is essential that ISPs still have the ability to prevent access to sites and services that facilitate illegal and criminal activities. The Open Internet rules are not intended to expand or contract broadband providers' rights or obligations with respect to other laws or safety and security considerations, including the needs of emergency communications and law enforcement, public safety, and national security authorities. Similarly, the Open Internet rules protect only *lawful* content and are not intended to impede efforts by broadband providers to address unlawful transfers of content or transfers of unlawful content.

As you note, in the *2010 Open Internet Order*, the FCC adopted a rule that acknowledged the ability of broadband providers to serve the needs of law enforcement as well as the needs of emergency communications and public safety, national, and homeland security authorities. To make clear that open Internet protections coexist with other legal frameworks governing the needs of safety and security authorities, the new Open Internet rules retain this principle:

Nothing in this part supersedes any obligation or authorization a provider of broadband

Internet access service may have to address the needs of emergency communications or law enforcement, public safety, or national security authorities, consistent with or as permitted by applicable law, or limits the provider's ability to do so.

The purpose of this provision is to ensure that open Internet rules do not restrict broadband providers in addressing the needs of law enforcement authorities, while ensuring that broadband providers do not use it as a loophole to the rules.

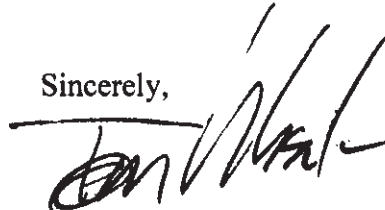
In addition, the Order also retains the rule on copyright infringement that you cited:

Nothing in this part prohibits reasonable efforts by a provider of broadband Internet access service to address copyright infringement or other unlawful activity.

The Order states that the Open Internet rules do not prohibit broadband providers from making reasonable efforts to address transfers of unlawful content or unlawful transfers of content. It also ensures that open Internet rules are not used as a shield to enable unlawful activity or to deter prompt action against such activity.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Wheeler", written over a horizontal line.

Tom Wheeler